

# Order

Michigan Supreme Court  
Lansing, Michigan

November 4, 2009

Marilyn Kelly,  
Chief Justice

139507

Michael F. Cavanagh  
Elizabeth A. Weaver  
Maura D. Corrigan  
Robert P. Young, Jr.  
Stephen J. Markman  
Diane M. Hathaway,  
Justices

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In re GENEVIEVE BROOKELYN HANSEN,  
Minor.

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DEPARTMENT OF HUMAN SERVICES,  
Petitioner-Appellee,

v

SC: 139507  
COA: 289903  
Manistee CC Family Division:  
07-000083-NA

BILLY JOE HANSEN,  
Respondent-Appellant,

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On order of the Court, the application for leave to appeal the July 21, 2009 judgment of the Court of Appeals is considered, and it is GRANTED. The parties shall include among the issues to be briefed: (1) whether the respondent's incarceration for a period exceeding two years was an automatic ground for termination under MCL 712A.19b(3)(h); (2) if not, whether the family court erred in finding that the respondent failed to provide proper care and custody when the child's mother, who herself was under the jurisdiction of the family court and unavailable to care for the child, placed the child with the respondent's relative; (3) if the trial court erred in terminating the respondent's parental rights under MCL 712A.19b(3)(h), whether the family court may support termination under MCL 712A.19b(3)(c)(i), when the respondent's incarceration and failure to provide proper care and custody were the conditions that led to the adjudication; (4) in the event that termination was appropriate under either MCL 712A.19b(3)(h) or (c)(i), whether it was in the best interests of the child under MCL 712A.19b (5); and (5) in evaluating the impact of MCL 712A.19b(5), whether the family court should have applied the post-amendment version of the statute. MCL 712A.19b(5), as amended by 2008 PA 199 (effective 7/11/08).

We further ORDER the Manistee Circuit Court Family Division to appoint attorney Vivek Sankaran of the University of Michigan Law School Child Advocacy Clinic, if feasible, to represent the respondent in this Court.

WEAVER, J. (*dissenting*).

I would deny leave to appeal because I am not persuaded that the Court of Appeals was clearly erroneous in its decision to affirm the trial court's order terminating respondent father's parental rights, and I am not persuaded that granting leave will achieve justice in this case.



s1028

I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

November 4, 2009

*Corbin R. Davis*

Clerk